

Express Mail # EU 472 450 742

Docket No. END 897 DIV1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Seth A. Foerster et al.

Serial No. : Art Unit:

Filed : July 30, 2003 Examiner:

For : METHODS AND DEVICES FOR DEFINING  
AND MARKING TISSUE

Commissioner for Patents  
MS Patent Application  
PO Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Dear Sir:

Pursuant to 37 C.F.R. §1.56 and in accordance with 37 C.F.R. §§1.97-1.98, information relating to the above-identified application is hereby disclosed. Inclusion of information in this statement is not to be construed as an admission that this information is material as that term is defined in 37 C.F.R. §1.56(b).

Applicant(s) reserve(s) the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist.

In accordance with §1.97(b), since this Information Disclosure Statement is being filed either within three months of the filing date of the above-identified national application (other than a continued prosecution application under §1.53(d)), within three months of the date of entry into the national stage of the above identified application as set forth in §1.491, or before the mailing date of a first Office Action on the merits of the above-identified application, or before the mailing

date of a first Office Action after the filing of a request for continued examination under §1.114, no additional fee is required.

[ ] In accordance with §1.129(a), this Information Disclosure Statement is being filed in connection with [ ] the first or [ ] second After Final Submission, therefore:

- [ ] Statement in Accordance with §1.97(e) (attached); or
- [ ] Please charge Deposit Account No. 10-0750/ /GSG the fee of \$180.00 as set forth in §1.17(p).

[ ] In accordance with §1.97(c), this Information Disclosure Statement is being filed after the period set forth in §1.97(b) above but before the mailing date of either a Final Action under §1.113 or a Notice of Allowance under §1.311, or an action that otherwise closes prosecution and that it is accompanied by one of:

- [ ] Statement in Accordance with §1.97(e) (attached); or
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[ ] In accordance with §1.97(d), this Information Disclosure Statement is being filed after the mailing date of either a Final Action under §1.113 or a Notice of Allowance under § 1.311 but before the payment of the Issue Fee. Applicant(s) hereby petition(s) for consideration of this Information Disclosure Statement. Included are: Statement in Accordance with §1.97(e) as set forth below and the fee of \$180.00 as set forth in §1.17(p).

[ ] Copies of each of the references listed on the attached Form PTO-1449 are enclosed herewith.

[X] Copies of references listed on the attached Form PTO-1449 are enclosed herewith EXCEPT THAT:

[X] Copies of references listed on the attached PTO Form 1449 were previously cited by or submitted to the Patent and Trademark Office in prior application. US Serial No. 10/213,638 filed August 7, 2002 to which this application claims priority.

[ ] In view of the voluminous nature of references [list as appropriate], and the likelihood that these references are available to the Examiner, copies are not enclosed herewith.

[ ] If any of the foregoing publications are not available to the Examiner, Applicant will endeavor to supply copies at the Examiner's request.

[ ] There are no listed references which are not in the English language.

[ ] The relevance of those listed references which are not in the English language is as follows:

[ ] Attached are copies of search report(s) from corresponding patent application(s).

[ ] Attached are the following non-published pending patent applications which may be deemed relevant.

Please charge any deficiency or credit any overpayment to Deposit Account No. 10-0750/END 897DIV1/GSG.

Respectfully submitted,



Gerry S. Gressel  
Reg. No. 34,342  
Attorney for Applicants

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Dated: July 30, 2003

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Substitute for form 1449A/PTO		Application Number
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)		Filing Date
		First Named Inventor
Sheet 1 of 3		Group Art Unit
		Examiner Name
		Attorney Docket Number
END 897 DIV1		

## U.S. PATENT DOCUMENTS

Examiner Initials	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document mm-dd-yyyy	Pages, Columns, Lines, where relevant passages or relevant figures appear
		Kind Code <sup>2</sup>	Number (if known)			
		RE	34,936	Campbell et al.	5/9/95	ALL
		3,120,230		Skold	10/24/60	ALL
		3,945,375		Banko	3/23/76	ALL
		3,958,576		Komiya	5/25/76	ALL
		3,996,935		Banko	12/14/76	ALL
		4,080,959		Leveen	3/28/78	ALL
		4,103,692		Baier et al.	8/1/78	ALL
		4,210,146		Banko	7/1/80	ALL
		4,250,892		Dolhay et al.	2/17/81	ALL
		4,320,761		Haddad	3/23/82	ALL
		4,583,538		Onik et al.	4/22/86	ALL
		4,649,151		Dougherty et al.	3/10/87	ALL
		4,699,154		Lindgren	10/13/87	ALL
		4,682,606		DeCaprio	7/28/87	ALL
		4,693,237		Hoffman et al.	9/15/87	ALL
		4,733,664		Kirsch et al.	3/29/88	ALL
		4,832,685		Haines	5/23/89	ALL
		4,853,210		Kass	8/1/89	ALL
		4,881,551		Taylor	11/21/89	ALL
		4,907,599		Taylor	3/13/90	ALL
		4,909,250		Smith	3/20/90	ALL
		4,929,240		Kirsch et al.	5/29/90	ALL
		4,935,005		Haines	6/19/90	ALL
		4,944,308		Akerfeldt	7/31/90	ALL
		4,994,069		Ritchart et al.	2/19/91	ALL
		4,995,877		Ams et al.	2/26/91	ALL
		5,018,530		Rank et al.	5/28/91	ALL
		5,108,407		Gerenia et al.	4/28/92	ALL
Examiner Signature				Date Considered		

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Sheet 2 of 3

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		Number	Kind Code <sup>2</sup> (if known)			
		5,025,797		Baran	6/25/91	ALL
		5,108,407		Gerenia et al.	4/28/92	ALL
		5,112,299		Pascaloff	5/12/92	ALL
		5,125,413		Baran	6/30/92	ALL
		5,127,916		Spencer et al.	7/7/92	ALL
		5,133,661		Euvrard	7/28/92	ALL
		5,147,307		Gluck	9/15/92	ALL
		5,156,609		Nakao et al.	10/20/92	ALL
		5,188,111		Yates et al.	2/23/93	ALL
		5,192,270		Carswell, Jr.	3/9/93	ALL
		5,192,292		Cezana et al.	3/9/93	ALL
		5,195,540		Shiber	3/23/92	ALL
		5,197,482		Rank et al.	3/30/93	ALL
		5,201,314		Bosley et al.	4/13/93	ALL

## FOREIGN PATENT DOCUMENTS

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		Office <sup>3</sup>	Number <sup>4</sup>	KindCode <sup>5</sup>				
		EPO	0 146 699	A1	Bahler et al.	7/3/85	ALL	
		EPO	0 293 605	B1	Herms et al.	11.08.93	ALL	
Examiner Signature					Date Considered			

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Sheet 3 of 3

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		Number	Kind Code <sup>2</sup> (if known)			
		5,209,232		Levene	5/11/93	ALL
		5,217,478		Rexroth	6/8/93	ALL
		5,221,269		Miller et al.	6/22/93	ALL
		5,226,911		Chee et al.	7/13/93	ALL
		5,234,426		Rank et al.	8/10/93	ALL
		5,242,456		Nash et al.	7/7/93	ALL
		5,275,609		Pingleton et al.	1/4/94	ALL
		5,280,457		Figueroa et al.	1/18/94	ALL
		5,329,635		Smith	6/14/94	ALL
		5,342,283		Good	8/30/94	ALL
		5,364,406		Sewell, Jr.	11/15/94	ALL
		5,400,798		Baran	3/28/95	ALL
		5,403,276		Schechter et al.	4/4/95	ALL
		4,103,690		Harris	8/1/78	ALL
		5,024,727		Campbell et al.	8/18/91	ALL

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		Office <sup>3</sup>	Number <sup>4</sup>	KindCode <sup>5</sup>				
		EPO	0 350 043	B1	Palestrant et al.	19.08.92	ALL	
		EPO	0 481 685	A1	Miller et al.	22.04.92	ALL	
		PCT	90/15576	A1	Rank et al.	27.12.90	ALL	
		PCT	93/19803	A1	Heath et al.	14/10/93	ALL	
		GB	2 132 091	A	Norton et al.	7/4/84	ALL	

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Sheet 1 of 2

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11-30-2003

First Named Inventor

Seth A. Foerster

Group Art Unit

Examiner Name

Attorney Docket Number

END-897 DIV1

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		Number	Kind Code <sup>2</sup> (if known)			
		6,071,301		Cragg et al.	06/06/2000	ALL
		6,174,330 B1		Stinson	01/16/2001	ALL
		6,183,497B1		Sing et al.	02/06/2001	ALL
		6,214,045B1		Corbitt, Jr. et al.	04/10/2001	ALL
		5,487,392		Haaga	01/30/1996	ALL
		5,626,611		Liu et al.	05/06/1997	ALL
		5,676,146		Scarborough	10/14/1997	ALL
		B1 5,676,146		Scarborough	04/18/2000	ALL

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		Office <sup>3</sup>	Number <sup>4</sup>	KindCode <sup>5</sup>				
		WO	00/78228A1		CHIN SING et al.	28-12- 2000	ALL	
		WO	98/10712		SCARBOROUGH, Nelson, L.	19-03- 1998	ALL	
		WO	95/13746		HAGGA, John B.	26-05- 1995	ALL	

## OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner's Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITOL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published				T <sup>2</sup>
		PARKER and KLAUS; From the RSNA Refresher Courses: Performing a Breast Biopsy With Directional, Vacuum-assisted Biopsy Instrument; Radiographics Vol 17/5, 1997, pp 1233-1252				
		LEONARD et al.; USE OF ULTRASOUND TO GUIDE RADIATION BOOST PLANNING FOLLOWING LUMPECTOMY FOR CARCINOMA OF THE BREAST; Int. Journal Radiation Oncology, Vol 27, 1993, pp 1193-1197				
		THOMSON et al.; Stereotactic Brain Biopsy Using a Narrow Aperture Computed Tomography Scanner; Clinical Radiology, vol 35, 1984, pp 209-214.				
		SEoudi et al; Stereotactic Core Needle Biopsy of Nonpalpable Breast Lesions- Initial Experience With a Promising Technique; Arch. Surgery, Vol. 133, April 1998; pp 366-372				
		HOFMANN et al.; Biodegradable Implants in Orthopaedic Surgery - A Review on the State-of-the-Art; Clinical Materials; Vol 10, 1992; pp 75-80				
		PARKER and BURBANK; A Practical Approach to Minimally Invasive Breast Biopsy; Radiology, vol 200, 1996, pp 11-20. Letters; Letters to the American Journal of Radiology; AJR vol. 164, January 1995, pp 260-261				

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)	
Sheet 2 of 2	
<i>Application Number</i>	7-30-2003
<i>Filing Date</i>	Seth A. Foerster
<i>First Named Inventor</i>	
<i>Group Art Unit</i>	
<i>Examiner Name</i>	
<i>Attorney Docket Number</i>	EAND-897 DIV I

## **U.S. PATENT DOCUMENTS**

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Seth A. Foerster

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		Number	Kind Code <sup>2</sup>			
		4,086,914		Moore, Edwin Bailey	05/78	ALL
		4,402,308		Scott, Walter P.	09/83	ALL
		4,709,703		Lazarow et al.	12/87	ALL
		4,871,094		Fujioka et al.	12/87	ALL
		5,358,474		Kaldany, Antoine	10/94	ALL
		5,487,392		Haaga, John R.	01/96	ALL
		5,526,822		Burbank et al.	06/96	ALL
		5,538,010		Darr et al.	07/96	ALL
		5,562,613		Kaidany, Antoine	10/96	ALL
		5,649,547		Ritchart et al.	07/97	ALL
		6,056,700		Burney et al.	03/99	ALL
		5,002,548		Campbell et al.	03/26/91	ALL
		5,242,457		Alcopov et al.	09/93	ALL
		5,413,584		Schulze	05/95	ALL
		5,496,314		Eggers	03/96	ALL
		5,681,262		Isse	10/97	ALL
		6,228,055	B1	Foerster et al.	05/08/01	ALL

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		Office <sup>3</sup>	Number <sup>4</sup>	KindCode <sup>5</sup>				
							ALL	

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		S. S. Kramer et al; "Permanent Radiopaque Marker Technique for the Study of Pharyngeal Swallowing in Dogs"; <i>Dysphagia</i> Vol. pp. 163-167 (1987).	
		Homer et al; "The Geographic Cluster of Microcalcifications of the Breast" <i>Surgery, Gynecology &amp; Obstetrics</i> , DCC, (1985).	
		Finan et al; "Intrastomal Radiotherapy for Early Stage Vaginal Cancer"; <i>The Journal of Reproductive Medicine</i> , Vol. 38, No. 3 Mar. 1993	

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First Named Inventor

Sergio A. Socorro

Group Art Unit

Examiner Name

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		4,197,846		Bucalo	04/15/80	ALL
		4,247,406		Widder et al.	01/27/81	ALL
		4,718,897		Elves	01-12-1988	ALL
		4,787,391		Eleftreriades	11-29-1988	ALL
		5,108,421		Fowler	04-28-1992	ALL
		5,122,147		Sewell	06-16-1992	ALL
		5,201,314		Bosley et al.	04-13-1993	ALL
		5,718,237		Haaga	02-17-1998	ALL
		5,873,904		Ragheb et al.	02-23-1999	ALL
		5,879,357		Heaton et al.	03-09-1999	ALL
		6,161,034		Burbank et al.	12-12-2000	ALL
		6,270,464		Fulton et al.	08-07-2001	ALL
		6,347,241		Burbank et al.	02-12-2002	ALL
		6,356,782		Sirimanne et al.	03-12-2002	ALL
		2001/0023322	A1	Esposito et al.	09-20-2001	ALL

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		Office <sup>3</sup>	Number <sup>4</sup>	KindCode <sup>5</sup>				
		WO	00/24320	A1	Esposito et al.	05-04-2000	ALL	
		JP	9-66063	A	Koken Co., LTD (Translation)	03-11-1997	ALL	

## OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

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		LEE and KNOCHEL; Technical Developments and Instrumentation: Air as an Ultrasound Contrast Marker for Accurate Determination of Needle Placement; Radiology 143; June 1982; pp 787-788		
		SULLIVAN; Perspective: Needle Core Biopsy of Mammographic Lesions; AJR vol 162, March 1994 (received 9/20/1993) pp 601-608.		
		YANDOW and MATAALLANA; Gas Contrast Guided Needle Biopsy of the Head of the Pancreas; Radiology vol. 137, November 1980; pp 543 - 544.		
		LEE et al.; Air as a Contrast Marker for Ultrasound-Guided Fetal Transfusions; Radiology, vol 138, Feb. 1981, pp 490-491.		
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